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 GARY PIERCE
 PAUL NEWMAN
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 BOB STUMP

ERNEST G. JOHNSON
 EXECUTIVE DIRECTOR



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ARIZONA CORPORATION COMMISSION

ORIGINAL

MEMORANDUM

TO: Kristin K. Mayes, Chairman
 Gary Pierce
 Paul Newman
 Sandra D. Kennedy
 Bob Stump

Arizona Corporation Commission
 DOCUMENTED

ARIZONA CORPORATION COMMISSION
 DOCKET CONTROL

2009 SEP 25 A 10:45

RECEIVED

FROM: Mark Dinell *MD*
 Assistant Director of Securities

DATE: September 18, 2009

RE: Thomas S. Blackwell, *et al.* (Docket No. S-20673A-09-0198); Order to Cease and Desist, for Restitution, of Revocation, and for Administrative Penalties

CC: Ernest G. Johnson, Executive Director

Attached is a proposed default Order to Cease and Desist, for Restitution, of Revocation, and for Administrative Penalties (the "Order"). On April 24, 2009, the Securities Division (the "Division") filed a Notice of Opportunity for Hearing Regarding Proposed Order to Cease and Desist, for Restitution, of Revocation, for Administrative Penalties, and for Other Affirmative Action (the "Notice") against Thomas S. Blackwell and his spouse Kimberly Blackwell (collectively, the "Blackwells") and Team Heat, LLC. The Division served the Notice upon the Blackwells and Team Heat by delivering a copy of it to their attorney Kevin Jensen. The Blackwells filed but later withdrew a request for hearing. The Blackwells did not file an answer to the Notice and Team Heat filed neither a request for hearing nor an answer to the Notice.

From August 2007 to January 2008, while Mr. Blackwell was a registered securities salesman affiliated with World Group Securities, Inc. ("WGS"), an Arizona registered securities dealer, Mr. Blackwell and Team Heat offered and sold investment contracts to eleven investors. In addition to being unregistered securities, these were not recorded on the records of WGS; they were not authorized investment products of WGS; and, Mr. Blackwell was not authorized by WGS to sell them.

The Order finds that 1) Team Heat violated A.R.S. §§ 44-1841, 44-1842, and 44-1991 by offering and selling unregistered securities while being unregistered and by violating the anti-fraud provisions of the Securities Act and 2) Mr. Blackwell violated §§ 44-1841 and 44-1991.

The Order requires Mr. Blackwell and Team Heat to cease and desist their activity, pay \$947,931 in restitution, and pay an administrative penalty in the amount of \$100,000. Also, the Order revokes the securities salesman registration of Mr. Blackwell pursuant to § 44-1962.

The Division believes that the Order is appropriate to protect the public welfare.

Originator: Aaron S. Ludwig

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 KRISTIN K. MAYES, Chairman
4 GARY PIERCE
5 PAUL NEWMAN
6 SANDRA D. KENNEDY
7 BOB STUMP

8 In the matter of

DOCKET NO. S-20673A-09-0198

9 THOMAS S. BLACKWELL (CRD #
4370822) and KIMBERLY BLACKWELL,
husband and wife,

DECISION NO. _____

10 TEAM HEAT, LLC, a terminated Arizona
limited liability company,

**ORDER TO CEASE AND DESIST, FOR
RESTITUTION, OF REVOCATION, AND
FOR ADMINISTRATIVE PENALTIES**

11 Respondents.
12

13 On April 24, 2009, the Securities Division ("Division") of the Arizona Corporation
14 Commission ("Commission") filed a Notice of Opportunity for Hearing Regarding Proposed Order
15 to Cease and Desist, for Restitution, of Revocation, for Administrative Penalties, and for Other
16 Affirmative Action ("Notice") against THOMAS S. BLACKWELL, KIMBERLY BLACKWELL,
17 and TEAM HEAT, LLC.

18 On April 29, 2009, the Division served the Notice upon THOMAS S. BLACKWELL,
19 KIMBERLY BLACKWELL, and TEAM HEAT, LLC by delivering a copy to their attorney Kevin
20 Jensen.

21 On May 20, 2009, a request for hearing was filed by THOMAS S. BLACKWELL and
22 KIMBERLY BLACKWELL. On September 2, 2009, this request for hearing was withdrawn.

23 THOMAS S. BLACKWELL and KIMBERLY BLACKWELL did not file an answer to the
24 Notice and TEAM HEAT, LLC filed neither a request for hearing nor an answer to the Notice.
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26

I.**FINDINGS OF FACT**

1. THOMAS S. BLACKWELL ("BLACKWELL") is an individual who, at all relevant times, resided in Maricopa County, Arizona. BLACKWELL is the manager of TEAM HEAT, LLC.

2. KIMBERLY BLACKWELL was, at all relevant times, the spouse of BLACKWELL and may be referred to as "Respondent Spouse." Respondent Spouse is joined in this action under A.R.S. §44-2031(C) solely for purposes of determining the liability of the marital community.

3. At all relevant times, BLACKWELL acted for his own benefit and for the benefit or in furtherance of the marital community.

4. TEAM HEAT, LLC ("TEAM HEAT") is a terminated, Arizona limited liability company with a last known principal place of business in Maricopa County, Arizona.

5. BLACKWELL and TEAM HEAT may be referred to collectively as "Respondents."

6. At all relevant times, BLACKWELL was a registered securities salesman affiliated with World Group Securities, Inc. ("WGS"), an Arizona registered securities dealer. BLACKWELL resigned from WGS in February 2008.

7. At all relevant times, TEAM HEAT was not registered as a securities dealer.

8. From on or about August 2007 to January 2008 in Maricopa County, Arizona, Respondents offered and sold \$1,429,000 of investment contracts with the title Rate of Return Agreement issued by TEAM HEAT to 11 investors. Respondents have repaid to investors amounts totaling \$683,365.

9. At all relevant times, the investment contracts referred to above were not registered pursuant to Articles 6 or 7 of the Securities Act.

10. The offers and sales of the Rate of Return Agreements were not recorded on the records of WGS. Investments associated with TEAM HEAT were not authorized investment products of WGS and BLACKWELL was not authorized by WGS to sell them.

1 11. The Rate of Return Agreements state as follows: "Investors are to provide funds
2 and TEAM HEAT is to provide the rate of return on the funds. A rate of return is projected to be
3 5% if a monthly withdrawal is taken. A return on investment is projected to be 6% monthly or
4 101% annually if funds are left to compound without any withdrawals. Return is...based on past
5 performance."

6 12. TEAM HEAT had no past performance generating returns on investments. TEAM
7 HEAT was formed by BLACKWELL for tax purposes, self-employment status, tax deductions,
8 and to pay his bills (e.g., office rent, assistant, office supplies). Prior to the offers and sales of the
9 Rate of Return Agreements, the business activity of TEAM HEAT did not include investments.

10 13. Respondents deposited all of the investors' money into one of Respondents' bank
11 accounts for investment by Respondents and Respondents expected to keep as their compensation
12 the difference between what the investments would actually yield and the return to be paid to
13 investors pursuant to the Rate of Return Agreements.

14 14. BLACKWELL represented that he and TEAM HEAT would put the investors'
15 money into "investments that he has looked at," including a highly profitable venture that funded
16 television advertisements for a variety of products (the "TV AD Venture"). In August 2007,
17 BLACKWELL viewed the TV AD Venture's website that claimed investors would earn annual
18 returns between 4,800% and 12,000%.

19 15. In September 2007, BLACKWELL learned that the TV AD Venture's operations
20 were transitioning offshore. In early November 2007, the TV AD Venture stopped making
21 payments to its investors and BLACKWELL was unable to obtain a refund of principal from the
22 operators of the TV AD Venture. In late December 2007, BLACKWELL learned that the
23 Securities and Exchange Commission had filed an enforcement action against the principals of the
24 TV AD Venture for fraud, alleging that the TV AD Venture really had no business operations and
25 that it was simply a Ponzi scheme. Respondents did not disclose to the investors any of the
26 foregoing information.

16. Although Respondents received some payments from the operators of the TV AD Venture, much of the investors' money was lost.

17. In January 2008, Respondents tried to recoup the investors' losses by causing some of the investors' money to be used in foreign currency trading. After just a few days of trading, Respondents lost additional amounts and ceased further use of the investors' money.

18. In early February 2008, BLACKWELL told the investors simply that the TV AD Venture lost money and that “it didn’t work out like we hoped,” so Respondents refunded to the investors what money of theirs they had left at the time.

19. Respondents have repaid in full some, but not all, of the investors.

20. Respondents spent \$122,466 of the investors' money on personal and business expenses, including \$5,400 in automobile lease payments.

II.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to Article XV of the Arizona Constitution and the Securities Act.

2. Neither Respondents nor Respondent Spouses requested a hearing pursuant to A.R.S. § 44-1972 and A.A.C. R14-4-307.

3. Neither Respondents nor Respondent Spouses filed an answer pursuant to A.A.C. R14-4-307.

4. Respondents offered or sold securities within or from Arizona, within the meaning of A.R.S. §§ 44-1801(15), 44-1801(21), and 44-1801(26).

5. Respondents violated A.R.S. § 44-1841 by offering or selling securities that were neither registered nor exempt from registration.

6. TEAM HEAT violated A.R.S. § 44-1842 by offering or selling securities while neither registered as a dealer nor exempt from registration.

1 7. Respondents violated A.R.S. § 44-1991 by (a) employing a device, scheme, or
2 artifice to defraud; (b) making untrue statements of material facts or omitting to state material facts
3 necessary in order to make the statements made, in the light of the circumstances under which they
4 were made, not misleading; and, (c) engaging in transactions, practices, or courses of business that
5 operate or would operate as a fraud or deceit. Respondents' conduct includes, but is not limited to,
6 the following:

7 a) Misrepresenting that the return to have been paid to the investors would
8 have been based on past performance;

9 b) Failing to disclose information that contradicted the representation that the
10 TV AD Venture was highly profitable;

11 c) Failing to adequately disclose that some investors would be repaid in full
12 before other investors and that Respondents would decide which investors that would be; and,

13 d) Failing to disclose that Respondents would spend \$122,466 of the investors'
14 money on personal and business expenses, including \$5,400 in automobile lease payments, before
15 all of the investors have been repaid.

16 8. BLACKWELL directly or indirectly controlled TEAM HEAT as its managing
17 member. Therefore, BLACKWELL is jointly and severally liable under A.R.S. § 44-1999 to the
18 same extent as TEAM HEAT for its violations of A.R.S. § 44-1991.

19 9. The conduct of BLACKWELL subjects him to an order of revocation of his
20 securities salesman registration pursuant to:

21 a) A.R.S. § 44-1962(A)(2) for violating A.R.S. §§ 44-1841 and 44-1991; and,

22 b) A.R.S. § 44-1962(A)(10) for engaging in dishonest or unethical practices as
23 defined by A.A.C. R14-4-130(A)(17) (effecting securities transactions that were not recorded on
24 the records of the dealer with whom he was registered at the time of the transactions).

25 10. Respondents' conduct is grounds for a cease and desist order pursuant to A.R.S.
26 §§ 44-2032 and 44-1962.

11. Respondents' conduct is grounds for an order of restitution pursuant to A.R.S. §§ 44-2032 and 44-1962.

12. Respondents' conduct is grounds for administrative penalties under A.R.S. §§ 44-2036 and 44-1962.

13. BLACKWELL acted for the benefit of his marital community and, pursuant to A.R.S. §§ 25-214 and 25-215, this Order of restitution and administrative penalties is a debt of the community.

III.

ORDER

THEREFORE, on the basis of the Findings of Fact and Conclusions of Law, the Commission finds that the following relief is appropriate, in the public interest, and necessary for the protection of investors:

IT IS ORDERED, pursuant to A.R.S. §§ 44-2032 and 44-1962, that Respondents, and any of Respondents' agents, employees, successors and assigns, permanently cease and desist from violating the Securities Act.

IT IS FURTHER ORDERED, pursuant to A.R.S. §§ 44-2032 and 44-1962, that Respondents, individually, and the marital community of BLACKWELL and Respondent Spouse, jointly and severally, shall pay restitution to the Commission in the amount of \$947,931. Payment shall be made in full on the date of this Order. Any amount outstanding shall accrue interest at the rate of 10% per annum from the date of this Order until paid in full. Payment shall be made to the "State of Arizona" to be placed in an interest-bearing account controlled by the Commission. The Commission shall disburse the funds on a pro-rata basis to investors shown on the records of the Commission. Any restitution funds that the Commission cannot disburse because an investor refuses to accept such payment, or any restitution funds that cannot be disbursed to an investor because the investor is deceased and the Commission cannot reasonably identify and locate the deceased investor's spouse or natural children surviving at the time of the distribution, shall be

1 disbursed on a pro-rata basis to the remaining investors shown on the records of the Commission.
2 Any funds that the Commission determines it is unable to or cannot feasibly disburse shall be
3 transferred to the general fund of the state of Arizona.

4 IT IS FURTHER ORDERED, pursuant to A.R.S. §§ 44-2036 and 44-1962, that
5 Respondents, individually, and the marital community of BLACKWELL and Respondent Spouse,
6 jointly and severally, shall pay an administrative penalty in the amount of \$100,000. Payment
7 shall be made to the "State of Arizona." Any amount outstanding shall accrue interest at the rate
8 of 10% per annum from the date of this Order until paid in full. The payment obligations for these
9 administrative penalties shall be subordinate to any restitution obligations ordered herein and shall
10 become immediately due and payable only after restitution payments have been paid in full or
11 upon default by Respondents or Respondent Spouse with respect to the restitution obligations of
12 Respondents and Respondent Spouse.

13 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-1962, that the securities salesman
14 registration of BLACKWELL is revoked.

15 For purposes of this Order, a bankruptcy filing by any of the Respondents or Respondent
16 Spouse shall be an act of default. If any Respondent or Respondent Spouse does not comply with
17 this Order, any outstanding balance may be deemed in default and shall be immediately due and
18 payable.

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IT IS FURTHER ORDERED that, if any Respondent or Respondent Spouse fails to comply with this order, the Commission may bring further legal proceedings against that Respondent or Respondent Spouse, including application to the superior court for an order of contempt.

IT IS FURTHER ORDERED that this Order shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, ERNEST G. JOHNSON, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this _____ day of _____, 2009.

ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

DISSENT

DISSENT

This document is available in alternative formats by contacting Shaylin A. Bernal, ADA Coordinator, voice phone number 602-542-3931, e-mail sabernal@azcc.gov.

(ASL)

1 SERVICE LIST FOR: In the Matter of Thomas S. Blackwell, et al.

2

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